IN THE HON'BLE HIGH COURT OF JUDICATURE AT BOMBAY, GOA BENCH, AT PORVORIM, GOA

P.I.L. Writ Petition No. /2021

The Goa Foundation ….Petitioner

V/s

State of Goa & Ors …Respondents

INDEX

Sr. No.	Description	Pages
1.	Synopsis and points to be heard	A - I
2.	Memo of petition	1 - 41
3.	Affidavit	42 - 43
4.	**Annexure 1:** Order of the Hon'ble Supreme Court of India in W.P. (Civil) 114/2014 dated 22.11.2017	44 - 49
5.	**Annexure 2:** Registration certificate and resolution of the Petitioner Organization	50 - 51
6.	**Annexure 3:** Undertaking of the Petitioner	52 – 53

7.	**Annexure 4**: Judgement [extract] of the Hon'ble Supreme Court of India in Writ Petition No. 435/2012 dated 21.4.2014	54 – 55
8.	**Annexure 5**: Letter by the petitioner to the Secretary [Mines] (Resp. No. 1) dt. 22.12.2014	56 - 57
9.	**Annexure 6**: Proposal of the Directorate of Mines and Geology (Resp. No. 2) dt. 19.09.2014	58 – 63
10.	**Annexure 7**: Note by the Advocate General, State of Goa, dt. 02.10.2014	64 – 69
11.	**Annexure 8**: Note by the Advocate General, State of Goa, dt. 25.04.2015	70 – 73
12.	**Annexure 9**: Note of the Directorate of Mines and Geology (Resp. No. 2) dt. 15.05.2015	74 – 77
13.	**Annexure 10 Colly**: Note of the Directorate of Mines and Geology (Resp. No. 2) dt. 11.01.2016 and response of the Secretary (Mines) [Resp. No. 1] dt. 21.01.2016	78 – 81
14.	**Annexure 11 Colly**: Note of the Directorate of Mines and Geology (Resp. No. 2) dt. 11.01.2016; Govt. of Goa Gazette notification dt. 11.01.2018; and letter by Director of Mines and Geology dt. 02.04.2018	82 – 85
15.	**Annexure 12 Colly**: File notings of the Directorate of Mines and Geology (Resp. No. 2)	86 – 91

16.	**<u>Annexure 13</u>**: Note by the Advocate General, State of Goa, dt. 26.09.2011	92 – 97
17.	**<u>Annexure 14 Colly</u>**: Order of the Hon'ble Court of the Judicial Magistrate, First Class, Margao, in Criminal Case No. 01/OA/MCDR/2013/II, dated 16.04.2018	98 – 103
18.	**<u>Annexure 15</u>**: Extract of the audit report of Mineira National Limitada [Resp. No. 4] dt. 07/07/2015	104-107
19.	**<u>Annexure 16 Colly</u>**: Payment challans issued by the Directorate of Mines and Geology, recording payments by Hardesh Ores Private Limited; dated --- respectively	
20.	**<u>Annexure 17 Colly</u>**: Order of the Directorate of Mines & Geology [Resp No. 2] dt. 18.02.2021	108-123
21.	**<u>Annexure 18 Colly</u>**: Note of the Directorate of Mines and Geology (Resp. No. 2) dt. 06.09.2017, and Indian Bureau of Mines order dt. 04.01.2018	124-131
22.	**<u>Annexure 19</u>**: CRISIL rating report/note of Fomento Resources Private Limited (Resp No 6) dt. 15.02.2018	132-137

Place: Porvorim, Goa

Date: .11.2021 Advocate for the Petitioner

A

IN THE HON'BLE HIGH COURT OF JUDICATURE AT BOMBAY, GOA BENCH, AT PORVORIM, GOA

P.I.L. Writ Petition No. /2021

The Goa Foundation ….Petitioner

V/s

State of Goa & Ors …Respondents

SYNOPSIS AND CHRONOLOGY OF DATES AND EVENTS

The present P.I.L. Writ Petition has been filed before this Hon'ble Court owing to the non-compliance by the State Government of Goa with specific directions issued by the Hon'ble Supreme Court of India. By its judgement dt. 21.04.2014 in W.P. (C) No. 435,2012, the Hon'ble Supreme Court directed the State Government to take action against the mining lessees who violate Rule 37 and Rule 38 of the Mineral Concession Rules, 1960, in the context of the rampant illegal mining in the State of Goa. Although the State Department of Mines and Geology has initiated inquiries subsequent to the

B

Supreme Court judgement dt. 21.04.2014, these inquiries have not been actively pursued nor completed by the State Authorities. These inquiries are extremely relevant to the extent of illegal mining in the state of Goa, recoveries of illegal gains of substantial amounts, grant of leases in future and fixing responsibility for rehabilitation of leased out areas which have suffered severe environmental damage. As the state government has failed to conclude the inquiries which it initiated, the present petition is filed seeking directions from this Hon'ble Court to refer the enquiry into the issue of violations of Rule 37 of the Mineral Concession Rules, 1960 in the State of Goa to an independent committee headed by a former High Court judge appointed by this Hon'ble Court, as was done by the Hon'ble Supreme Court of India in dealing with similar violations arising out of illegal mining in the State of Odisha.

LIST OF DATES AND EVENTS

C

Sr. No.	Date	Particulars of events or documents if any	Annexure and page
1.	7.12.2012	CEC report highlights that multiple mining lessees in Goa are operating in violation of Section 37 of the MCR, 1960 and asks for inquiry	
2.	31.12.2012	The Indian Bureau of Mines files a complaint before a criminal court against MNL, inter alia for mining without an approved mining plan, and for mining excess ore beyond prescribed limits	
3.	October 2013	The Third Report of Justice M. B. Shah Commission of Inquiry into Illegal Mining in Goa highlights and discusses the illegal transfers of mining leases in Goa in violation of Rule 37 of the MCR, 1960	
4.	13.11.2013	Hon'ble Supreme Court confiscates all ores of all mining leases in the State of Goa	
5.	21.04.2014	Hon'ble Supreme Court declares mining in Goa illegal post 21.11.2007 and confiscates all ores lying in the State of Goa. Inter alia directs State Government to take actions against lessees who violate Rule 37 and Rule 38 of the MCR 1960	

D

6.	19.09.2014	Directorate of Mines and Geology (Resp. No. 2) identifies 55 mining leases which could come under purview of Rule 37 violations	**Ann. 6,** at pg. --
7.	02.10.2014	Note by the Advocate General, State of Goa, ----------	**Ann. 7,** at pg. --
8.	08.10.2014	Directorate of Mines and Geology (Resp. No. 2) issues show cause notices to 11 leaseholders and initiates inquiry into Rule 37 violations by them	
9.	22.12.2014	Petitioner writes to the Secretary, Mines (Resp. No. 1) providing details about Rule 37, MCR 1960, violations by 83 mining leaseholders in Goa	**Ann. 5,** at pg. --
10.	12.01.2015	MMDR Act 1957 amended through ordinance	
11.	25.04.2015	Note by the Advocate General, State of Goa, stating that the State of Goa needs to comply with the S.C's directions on conducting inquiries into Rule 37 violations	**Ann. 8,** at pg. --
12.	15.05.2015	Note prepared by the Directorate of Mines and Geology (Resp. No. 2) proposing to issue notices to leaseholders w.r.t Rule 37 of the MCR, 1960	**Ann. 9,** at pg. --

13.	07.07.2015	A Team of Chartered Accountants set up by the Goa government to investigate lessees in context of Rule 37 submits report to the D.M.G, which clearly shows violation of Rule 37 by MNL, the Resp. No. 4. Recovery due from MNL estimated as Rs 22 crores.	**Ann. 15,** at pg. --
14.	28.09.2015	In compliance proceedings in the Hon'ble Supreme Court in W.P. (C) 435/2012, the State Government states on affidavit that fresh proceedings on Rule 37 violations would commence tentatively by 06.10.2015	
15.	11.01.2016	The Directorate of Mines and Geology (Resp. No. 2) writes to the Secretary (Mines) [Resp. No. 1] to initiate further proceedings for violation of Rule 37	**Ann. 10 Colly**, at pg. --
16.	21.01.2016	The Secretary (Mines) informs the Directorate of Mines and Geology that certain important documents are missing and need to placed on record before commencing with Rule 37 inquiries	**Ann. 10 Colly**, at pg. --
17.	19.09.2016	The Directorate of Mines and Geology (Resp. No. 2) issues show cause notices to holders and transferees of only 13 mining leases	

F

18.	06.06.2017	A single judge bench of this Hon'ble Court dismisses a writ appeal (WP No.1180/2016) filed by MNL against arbitration orders passed against it, dealing with TC No.62/51. All the facts that would make a strong case for violation of Rule 37 are narrated in the said judgement, however, this issue was not raised therein.	
19.	27.09.2017	The Directorate of Mines and Geology prepares a note suggesting that an officer of the Government be personally named to conduct the proceedings under Rule 37.	**Ann. 11 Colly,** at pg. --
20.	11.01.2018	Notification issued in the Official Gazette, Gov. of Goa, delegating the State Govt's powers to Mr Prasanna Acharya, DMG, to hear the matters of violations under Rule 37 & 38. dt. 11.01.2018	**Ann. 11 Colly,** at pg. --
21.	02.04.2018	Mr. Prasanna Acharya requests to recuse from Rule 37 hearings in view of proceedings initiated against him before the Hon'ble Lokayukta (which eventually indicted him).	**Ann. 11 Colly,** at pg. --
22.			

23.	06.09.2017	Note prepared by the Directorate of Mines and Geology (Resp. No. 2) in the files of the DMG dealing with the MNL lease.	
24.	04.01.2018	IBM approves Mining Plan for TC No. 62/51, Cuddegal	**Ann. 18 Colly**, at pg. --
25.	22.11.2017	Hon'ble Supreme Court of India constitutes Committee headed by retired S.C. judges to inquire into Rule 37 violations in Odisha, *vide* order in in W.P. (Civil) 114/2014 dated 22.11.2017	**Ann. 1**, at pg. --
26.	07.02.2018	Hon'ble Supreme Court sets aside second renewal orders of 88 mining leases in Goa	
27.	15.03.2018	All mining operations come to a halt in the state of Goa	
28.	13.02.2021	As against Rs 22 Crore dues from MNL identified by Audit Report, the DMF issue show cause notice to MNL for recovery of Rs 6.34 crores.	
29.	18.02.2021	Final order of DMG dt. 18.02.2021 directs recovery of Rs 6.34 crores from MNL	**Ann. 17,** at pgs. --
30.	01.12.2021	Present PIL W.P. is filed	

H

IN THE HON'BLE HIGH COURT OF JUDICATURE AT BOMBAY, GOA BENCH, AT PORVORIM, GOA

P.I.L. Writ Petition No. /2021

The Goa Foundation ….Petitioner

V/s

State of Goa & Ors …Respondents

QUESTIONS FOR DETERMINATION
&
LIST OF ACTS & AUTHORITIES

1. Whether ---

- The Mines and Minerals (Development and Regulation) Act, 1957
- The Minerals (Other than Atomic and Hydro Carbons Energy Minerals) Concession Rules, 2016.

Judgements to be relied on:

1. *Goa Foundation vs. Union of India,* [(2014) 6 SCC 590] ("***Goa Foundation I***")

2. *Goa Foundation vs. Union of India and Ors*., [(2018) 4 SCC 218] ("***Goa Foundation II***")

Place: Porvorim, Goa

Date: .11.2021 Advocate for the petitioner

IN THE HON'BLE HIGH COURT OF JUDICATURE AT BOMBAY, GOA BENCH, AT PORVORIM, GOA

PIL WRIT PETITION NO._____ OF 2021

IN THE MATTER OF ARTICLES 21, 39, 48A, 51 A(g), 226 AND 227 OF THE CONSTITUTION OF INDIA AND RULE 4(e) of THE BOMBAY HC PIL RULES;

AND

IN THE MATTER OF RULE 37 OF THE MINERAL CONCESSION RULES, 1960;

AND

IN THE MATTER OF THE SECTIONS 4 AND 4A OF THE MINES AND MINERALS (DEVELOPMENT AND REGULATION) ACT, 1957;

AND

IN THE MATTER OF CONTINUING INACTION OF THE GOA GOVERNMENT

REGARDING ITS OBLIGATION TO CONDUCT INQUIRIES AGAINST THOSE FORMER LEASE-HOLDERS WHO ALLOWED THEIR LEASES TO BE OPERATED IN VIOLATION OF RULE 37 OF THE MINERAL CONCESSION RULES, 1960

1) **THE GOA FOUNDATION**
through its Secretary, Dr. Claude Alvares,
age 73 years, Having Regd. Office at
Room No 7, Above Mapusa Clinic,
Mapusa, Goa 403507,
PAN No. AAAAG0249C
Email id: goafoundation@gmail.com

……**Petitioner**

V/s

1) **THE STATE OF GOA**
through its Chief Secretary, also
Principal Secretary (Mines)
Secretariat, Porvorim, Goa - 403521.

2) **THE DIRECTORATE OF MINES & GEOLOGY (DMG),**
through its Director,
Menezes Braganza Bldg.,
Panaji, Goa - 403001.

3) **THE MINISTRY OF MINES**,
Through its Secretary,
Shastri Bhawan, Dr. Rajendra Prasad Road,
New Delhi, Delhi - 110001

4) **MINEIRA NATIONALE LTD**.,
Through its Power of Attorney holder, Mr. Subramany,
Having Office at Salgaocar Bhavan,
Altinho, Panaji, Goa - 403001.

5) **M/S HARDESH ORES PVT LTD**.,
with office at Villa Flores Da Silva,
Erasmo Carvalho Street,
Margao, Goa – 403601.

6) **FOMENTO SOCIEDADE DE INDUSTRIALE**
PVT LTD., with office at Villa Flores Da Silva,
Erasmo Carvalho Street,
Margao, Goa – 403601.

….**RESPONDENTS**

(Above addresses are registered addresses of parties)

To,

The Hon'ble Chief Justice and Companion Judges,

Bombay High Court at Panaji, Goa

THIS HUMBLE PETITION OF THE PETITIONER

MOST RESPECTFULLY SHOWETH:

<u>Brief Particulars of the Cause against which PIL is filed</u>

1. This PIL Writ Petition is being filed in view of obvious reluctance of the State of Goa to carry out directions issued by the Hon'ble Supreme Court of India to conduct inquiries into violations of Rule 37 of the Mineral Concession Rules, 1960, by several former mining lease holders in Goa – despite a passage of 7 years since the Hon'ble Supreme Court issued this direction by its judgment dated 21.4.2014 in WP (C) No 435/2012 filed by this petitioner. The specific direction given in the judgement of the Hon'ble Court in WP No.435/2012 is quoted below:

> "Para 88 (ii) The State Government will initiate action against those mining lessees who violate Rules 37 and 38 of the Mining Concession Rules."

2. Though the Mines Department initiated an inquiry post the judgement, it has neither pursued nor completed it, due to the influence of the mining lobby which continues to exercise a stranglehold on the department. The inquiry has a bearing on the extent of illegal mining in the state of Goa, recoveries of illegal gains of substantial amounts, grant of leases in future and fixing responsibility for rehabilitation of leased out areas which have suffered severe environmental damage. Further, former lease holders who mined in violation of Rule 37 ought not to be permitted to do mining in the State and should be permanently blacklisted from the industry and trade.

3. As the state government has failed to conclude the inquiries which it initiated – and this fact may be also due to the fact that the state government was an active accomplice in these violations, as the record shows – the instant PIL is filed seeking directions from this Hon'ble Court to refer the enquiry into the issue of violations of Rule 37 of the Mineral Concession Rules, 1960 (hereinafter, MCR) in the State of Goa to an independent committee headed by a former High Court judge appointed by this Hon'ble Court. This prayer is made in the light of the fact that in the case of similar violations found in the State of Odisha, the Hon'ble Supreme Court set up an Enquiry Committee comprising of Hon'ble Justice G.S. Singhvi and

Hon'ble Justice Anil R. Dave to examine and ascertain whether there had been any violation of Rule 37 of the Mineral Concession Rules, 1960 and Section 6 of the Mines and Minerals (Development and Regulation) Act, 1957 so that action could be taken by the Odisha government. The Committee duly completed its task and has submitted its report to the state government there. A copy of the order dated 22.11.2017 setting up the Justice Singhvi Committee is enclosed as **Annexure 1.**

Particulars of the Petitioner

4. The petitioner is an environmental NGO based in Goa who has approached both, this Hon'ble Court and the Hon'ble Supreme Court time and again over the past three decades, in public interest, for enforcement of the provisions of environment, wildlife, forest, pollution, mining laws and the planned development of the State of Goa through the statutory Regional Plan for Goa. Registration certification and names of office bearers of the Society are annexed to the petition at **Annexure 2.** The annual income of the Petitioner society varies between Rs.10 lakh to Rs.15 lakh. The Petitioner states that there is no civil, criminal or revenue litigation involving the Petitioner organization which has or could have a legal nexus with the issue involved in this PIL. Undertaking that the petitioner will disclose the source of information leading to the filing of the PIL is at **Annexure 3.**

Declaration of the Petitioner

5. The Petitioner states that this petition is filed by way of public interest and the petitioner does not have any personal interest in the matter. The PIL is filed in the interests of recovery of wealth of the State of Goa which is a public resource owned by the people of the State held in the form of minerals and for extraction of which a valid lease is required. One of the foundations of the PIL is the National Mineral Policy 2019, which explicitly holds: *"Natural resources, including minerals, are a shared inheritance where the state is the trustee on behalf of the people to ensure that future generations receive the benefit of inheritance. State Governments will endeavor to ensure that the full value of the extracted minerals is received by the State."* As owners of the minerals, citizens of a state can take an active interest in their conservation, disposal and use.

6. The Petitioner states that the entire litigation costs and other charges are being borne by the petitioner.

7. The Petitioner states that adequate research has been conducted in the matter raised through the petition and that this Hon'ble Court has the jurisdiction to hear & decide this petition. All relevant material has been annexed to the petition. More may be added, if necessary, at later stage.

8. The Petitioner states that to the best of the petitioner's knowledge and research the issues raised in the petition was not dealt with or decided and that a similar or identical petition was not filed earlier by the petitioner on the same matter either in this Hon'ble Court or in the Supreme Court of India.

9. The Petitioner has understood that in the course of hearing of this petition, the Court may require any security to be furnished towards costs or any other charges and the petitioner shall comply with such charges.

Facts constituting the cause

10. By its judgement dated 21.4.2014 in Writ Petition No.435/2012 **(***Goa Foundation vs. Union of India* [(2014) 6 SCC 590]**),** the Supreme Court of India declared the validity of all mining leases in Goa to have expired on 21.11.2007. Among the several directions issued was a direction to the state of Goa to take action under the law against those lessees who had violated Rule 37 of the Mineral Concession Rules, 1960, in the course of their mining operations. Extract from the Supreme Court's judgement containing the directions only is at **Annexure 4.**

11. Rule 37 of the Mineral Concession Rules, (MCR), 1960, reads as follows:

"37. Transfer of lease :- (1) The lessee shall not, without the previous consent in writing of the State Government and in the case of mining lease in respect of any mineral specified in [Part 'A' and Part 'B' of] the First Schedule to the Act, without the previous approval of the Central Government :-

(a) assign, sublet, mortgage, or in any other manner, transfer the mining lease, or any right, title or interest therein, or

(b) enter into or make any [bonafide] arrangement, contract, or understanding whereby the lessee will or may be directly or indirectly financed to a substantial extent by, or under which the lessee's operations or undertakings will or may be substantially controlled by, any person or body of persons other than the lessee:" (The words in [square brackets] were inserted on 17.1.2000.)

Provided further that where the mortgagee is an institution or a Bank or a Corporation specified in Schedule V, it shall not be necessary for the lessee to obtain any such consent of the State Government.

12. As per section 21 and 25 of the MMDR Rules, the state of Goa is duty bound to complete enquiries, pass necessary orders and to recover all the monies earned from the sale of any minerals from the said lease, if it is established that there was a violation of any of the provisions of the Act and Rules including Section 4 and 4A of the MMDR Act and Rule 37 of MCR, 1960.

13. Throughout the last two decades this petitioner has filed several complaints with the Government / Mines Department and other authorities (including the Justice Shah Commission and the Central Empowered Committee) relating to violation of Rule 37 of the MCR Rules, 1960, listing specific case studies. As per petitioner's own data, 83 leaseholders operated in violation of Rule 37 during the active mining period. The Petitioner made a formal representation to the Secretary (Mines) in charge of the enquiry by its letter dated 22.12.2014, providing details. Since then the petitioner has been following up the matter from time to time with the Mines department. The petitioner's letter dated 22.12.2014 is at **Annexure 5**.

14. The Goa government itself was well aware that Rule 37 was rampantly violated in the State by several lessees. However, embedded in a very close and cosy relationship with miners, it has taken no action. In fact, as can be seen in file notings referred to in

this PIL, the Government took the view that the operation of mining leases by persons other than the legal lease-holders was a common practice in Goa and it would open a Pandora's box if it took action against any lessee, big or small.

15. During the course of the proceedings in the Hon'ble Supreme Court of WP (C) 435/2012, multiple Expert Committees had reported the blatant violation of Rule 37 of the MCR, 1960 in the State of Goa as a gross example of illegal mining. The CEC in its Report dated 07.12.2012 dealt with the issue of "Mining Leases Being Operated in Flagrant Violation by Persons Other Than the Lessees" in Part IV of the Report. It concluded:

> "80. The CEC is of the considered view that prima facie a large number of mining leases are being operated by the person(s) other than the lease holders and in flagrant violation of Rule 37, MCR, 1960. In a number of cases, the mining leases were granted in favour of individual persons and have been converted into partnership firms and which are owned by influential persons. The State of Goa has not taken any effective steps in the matter.
>
> "81. In view of the above, the CEC is of the view that it would be appropriate that the details of all

the mining leases in the State of Goa are verified with reference to the available records and wherever there are reasonable doubts that the mining lease/s was being operated by a person other than the lease holder detailed enquiry should be held. For this purpose, if required the concerned lease holder may be asked to provide the year wise details of the expenditure incurred by him towards the cost of raising mineral, payment of royalty, etc., the sale price received by him and the gross income and the net income from the mining lease for the last five years. In respect of the mining leases for which such details are not received from the respective lease holder and/or are not found to be reliable the statutory clearances given for the mining lease should be held in abeyance and the mining operations should not be allowed to be restarted till a detailed enquiry is carried out. In respect of the mining leases which are found to have operated in violation of Rule 37, MCR, 1960, the process of the determination of the leases in accordance with the legal provision should be taken in a time bound manner."

Petitioner craves leave to produce a copy of the relevant pages from the CEC Report if and when required in these proceedings.

16. The Third Report of Justice M. B. Shah Commission of Inquiry into Illegal Mining in Goa (Shah Commission Report III, October 2013), reported that 68 lease holders of mines have transferred their lease hold rights / interest / title and that "transferees" are operating mines without previous consent in writing of State Govt. or without previous approval of Central govt. as provided under Rule 37 of MCR, 1960. The Commission dealt in Part I of its Report with the issue of "Illegal Transfer of Mining Lease in Violation of Rule 37 of the MCR, 1960" Referring to the manner in which violation of Rule 37 occurs, the Commission stated as follows:

ILLEGAL MINING IN VIOLATION OF RULE 37 OF MCR, 1960

During investigation it is found that **68 lease holders of** mines have transferred their lease hold rights/ interest / title and "transferees" are operating mines without previous consent in writing of State Govt. or without previous approval of central govt. as provided under Rule 37 of MCR, 1960.

(a) Operation of mine by the person / s, firm or a company other than the actual lease holder would not be possible unless there is direct or indirect support from the regulatory authorities.

(b) The violation of Rule 37 of MCR, 1960 would automatically attract violation of Sections 4 and 4(1)(A) of MMDR Act, 1957. **Breach of the said sections amounts to an offence punishable u/s.21 of MMDR Act, 1957.**

(c) It is noticed by the Commission from the details provided and collected during investigation that the violators have conveniently avoided to obtain previous consent in writing from the Government for reason best known to them. Mostly they are the companies incorporated under the company law or partnership firms.

(i) Some of such violators have posed themselves as power of attorney holder of the person/ s having leasehold interest in a mining area and

(ii) Some of them have put on mask of raising contractors.

(iii) Some of them have got "back door" entry by purchasing more than 50% shares or equity in the companies and taken the

management of the lease under their control.

Petitioner craves leave to produce copy of the relevant pages from Justice Shah Commission Report III, if and when required, in these proceedings.

17. Both the CEC Report and the Justice Shah Commission's Report were before the Hon'ble Supreme Court for consideration in Writ Petition No.435/2012. Noting that if these violations of Rule 37 are allowed, there shall be substantial leakage of revenue and mining operations cannot be effectively regulated and controlled by the State Government, the Hon'ble Supreme Court in its judgment dated 21.04.2014, in WP (C) No. 435/2012, issued directions to the State Government to initiate action against those mining lessees who had violated Rules 37 and 38 of the MCR, 1960.

18. Petitioner has pursued the implementation of the Supreme Court's direction by the authorities through enquiries with the Mines department and applications under the RTI Act. Information and documents received via RTI requests reveal the absolutely casual and passive attitude of the State Government in complying with the Hon'ble Apex Court's directions to take action against the violators, despite the advice of the Advocate

General that it is necessary for the State of Goa to comply expeditiously with the Supreme Court's direction as well as the assurances given to the Court by the State. More than 7 years later, no orders have been passed in this regard by the Goa government. The facts that emerge from the relevant files examined under several RTI requests are set out in the paras below.

19. A proposal of the Director of Mines and Geology, Goa (DMG) on the subject of Rule 37 violations, dated 19.09.2014, lists 55 mining leases which could come under the purview of Rule 37 violation. The DMG proposed to issue show cause notices to all of the lease holders and that the Secretary (Mines) be authorised to conduct the proceedings. A copy of the said proposal is enclosed as **Annexure 6.** It is not known whether the show cause notices were indeed sent to parties.

20. This was followed by a detailed note dated 02.10.2014 from the state's Advocate General, who emphatically observed that as the State had represented before the Hon'ble Supreme Court that it will act upon Justice Shah Commission of Inquiry Report after affording an opportunity of hearing to the mining companies, and as directions to this effect were issued by the Hon'ble Supreme Court in its judgement dated 21-4-2014, the stalling of the inquiries by the Dept of Mines is highly

inappropriate as this will also delay the commencement of mining in the State. The Chief Minister/Mines Minister immediately accepted the decision of the Advocate General. Copy of the AG's note with the CM's comments is at **Annexure 7**.

21. Shortly thereafter, on 08.10.2014, the DMG issued the Show Cause Notices to 11 leaseholders and purportedly initiated inquiry into these cases for the violation of Rule 37, MCR. In due course, replies were filed and personal hearings were carried out. However, no orders were issued by the Secretary (Mines) hearing the matters, as the Government of India transferred the said official (Pawan Kumar Sain) out of Goa.

22. On 25.4.2015, the Advocate General once again adverted to the seriousness of the issue and expressed that he was disturbed at the slow pace of action. Compliance with the Supreme Court's direction is required to be demonstrated, he opined. Once again, the CM agreed with the Advocate General. Copy of the AG's Note is at **Annexure 8**,

23. Thereafter, a Note dated 15.5.2015 was prepared by the DMG again proposing to issue notices "to all lease holders who are granted second renewal and also those operating before 2007 to 2012 and who are not issued notices under Rule 37 of MCR 1960, who might have not conducted mining operations all by themselves, asking them to reply within a period

of 15 days, so that all contracts, agreements, etc., entered into by such lease holders could be examined and, in case of doubt, further proceedings could be initiated following principles of natural justice." Copy of the note is at **Annexure 9**.

24. Subsequently, the Government vide an affidavit dated 28.09.2015, submitted to the Hon'ble Supreme Court (in compliance proceedings in WP 435/2012,**)** that fresh proceedings on Rule 37 violations would commence tentatively by 06.10.2015. The same month, however, several mining lease-holders involved in Rule 37 violations re-commenced mining operations, as their leases were renewed by the Government. [These renewal orders were quashed and set aside by the Hon'ble Supreme Court in 2018.].

25. On 11.01.2016, the DMG wrote to the Secretary (Mines) to initiate further proceedings for violation of Rule 37. In response, on 21.01.2016, the Secretary (Mines) informed the DMG that the present file is in bits and pieces and that some important details are missing. He listed 10 important documents to be placed on record for the inquiry without which it is difficult to proceed with the proposed action under Rule 37. A copy of the note dated 11.01.2016 and of the Secretary's response dated 21.01.2016 is enclosed as **Annexure 10 colly.**

26. Eventually, nine months later, on 19.09.2016, Show Cause notices were issued to holders and "transferees" of only 13 mining leases. The details of the persons/lease-holders to whom the SCNs were sent have been produced in a tabular form below:

Sr. No	**TC No.**	**Lease Holder**	**Transferee**
1	63/51	Chandrakant F Naik	Rajesh Timblo
2	11/41	Dempo & Souza Ltd	Sesa Mining Corp Ltd
3	12/41	Dempo & Souza Ltd	Sesa Mining Corp Ltd
4	13/41	Dempo & Souza Ltd	Sesa Mining Corp Ltd
5	14/41	Dempo & Souza Ltd	Sesa Mining Corp Ltd
6	15/41	Dempo & Souza Ltd	Sesa Mining Corp Ltd
7	43/53	Noor Mohmad Abdul Karim	Timblo Minerals Pvt Ltd.
8	03/51	Firma V.S.Dempo & CIA Ltd	Sesa Resources Ltd
9	40/54	Firma V.S.Dempo & CIA Ltd	Sesa Resources Ltd
10	05/54	Firma V.S.Dempo & CIA Ltd	Sesa Resources Ltd
11	20/54	Firma V.S.Dempo & CIA Ltd	Sesa Resources Ltd
12	21/54	Firma V.S.Dempo & CIA Ltd	Sesa Resources Ltd
13	110/53	Jose Cosme Da Costa	Cosme Costa and Sons

27. No orders have been passed with regard to the violation of Rule 37 of the MCR by any of these lessees to date. The record of proceedings by the Secretary of Mines in the DMG's file shows that several adjournments have been granted without recording any legitimate reasons. The DMG now has only 4 files dealing with the inquiry as follows:

a) Rajesh Timblo (TC 63/51): Bulk of the file deals with the dispute between the heirs of the former lease holder, Chandrakant Naik and Rajesh Timblo. File notings are 13 pages. First SCN was issued on 8.10.2014, second on 1.20.2015. Last proceeding was held on 10.7.2017. No result. (Serial No.1 of list above.)

b) Vedanta (TC Nos.11-15) located at Bicholim. There is a long statement of rebuttal from Vedanta in the file. No result. (Serial No.2-6 of list above.)

c) Imran Khan (Amalia Figueredo) (TC 65/51). The SIT has raised a demand for Rs.167 crore for violations including section 37 against the lease-holder. No result.

d) Noor Mohamed Abdul Karim and Timblo Minerals P.Ltd. (TC 43/53). Most of the file is about their agreements, etc. No result. (Serial No.7 of the list above.)

28. Several draft notices were made out to the following, but it is not known whether they were even despatched:

    1) Vedanta 3/51, 40/54, 5/54, 20/54, 21/54 Sesa Resources Ltd (Serial Nos.8-12 of the list above.)

    2) TC Nos.3/57, 33/57, 19/54 by Timblo Pvt Ltd and V.M. Salgaoncar & Bros Ltd.

    3) TC Nos.40/51, 12/52 Infrastructure Logistics Pvt Ltd

    4) TC Nos.7/41 and 23/53 M/s Chougule and Co

    5) TC Nos.8/41 and 6/61 Infrastructure Logistics

29. A year later, on 27.9.2017 – a fresh note was once again created by the DMG suggesting that an officer of the Government be personally named to conduct the proceedings under Rule 37. By Gazette Notification issued on 11.1.2018, the Government delegated the powers to Mr Prasanna Acharya, DMG, to hear the matters of violations under Rule

37 & 38. However, on 2.4.2018, Prasanna Acharya requested to recuse from Rule 37 hearings in view of proceedings initiated against him before the Hon'ble Lokayukta (which eventually indicted him). These documents are to be found at **Annexure 11 colly**. Thereafter, there has been no movement of the files till date. The State Government's reluctance to take action against the former mining lease holders is more than amply clear from the documents brought on record in this petition.

30. In the Goa Grant of Mining Leases Policy, 2014, it was clearly affirmed by the state of Goa that no second renewals would be granted till Rule 37 inquiries against lease-holders who had applied for second renewal were completed and actions taken. However, the state of Goa violated these solemn assurances and renewed 88 mining leases between November 2014 and January 12, 2015. This was one of the grounds highlighted by the Supreme Court in its judgement dated 7.2.2018 quashing all the second renewal orders. Petitioner craves leave to produce and rely upon the said Mining Leases Policy, 2014, if and when required.

31. Despite the admonition by the Hon'ble Supreme Court, the Government of Goa, without a shred of shame, has continued to do business with these

former lease-holders and to protect their interests and promote their profits.

32. Petitioner submits that the DMG has also been very selective in the mining companies it has issued show cause notices to. Petitioner cites a prime example of one such mining lease holder, who has not featured on the radar of the DMG for violations of rule 37, despite being informed by several authorities that it is a major violator of Rule 37 for several decades. Instead the DMG continues to entertain applications from the company - Mineira Nationale Ltd (Resp No. 4) -- and do business with it. The Goa government has recently granted transport permits for MNL for removal of 25 lakh tonnes of mineral rejects from its dead mining lease (estimated value Rs.230 crores) which has been challenged by way of a separate petition filed by this petitioner before this Hon'ble Court. The Court has since been pleased to grant ad-interim restraint on any further activity pursuant to these permits. The enumeration of facts relating to the MNL lease provides a good example of the blatant way in which the government, despite knowledge of the violation, simply refuses to take action against the errant former lessee despite the assurances given by it to the Hon'ble Supreme Court. To the best of the petitioner's knowledge a show cause notice has not even been issued to the company.

MNL's violation of Rule 37

33. MNL (Resp.No.4) is one of the lessees on the list of official lease holders as per the 1987 Abolition Act. It was granted a first renewal of the mining lease TC No 62/51 in 1989. It has never operated the lease but instead signed a contract right from day one with M/s Hardesh Ores Pvt Ltd, (Resp No 5, hereinafter 'HOPL') to run the mine and extract the minerals. The contract is in explicit violation of Rule 37 of the MCR 1960 since the government has not consented to the arrangement. The contractual arrangement has been highlighted several times, but brushed aside on every occasion as the narration below will show.

    i) *Civil court dispute*: When a conflict about the contract arose between MNL and HOPL which went to the civil court, the DMG was asked to file an affidavit before the Civil Judge, Sr. Division, Margao. The Secretary (Law) then opined that any decision on the question of Rule 37 of MCR 1960 would affect the mining industry as a whole. No affidavit was filed. The Civil Judge went on to protect the rights of HOPL in terms of the contract – though the lease was in the name of MNL and such contract violated Rule 37.

ii) *EIA violation*: On 30.7.2004, MNL informed the DMG that the agreement between it and HOPL had been terminated. On 3.10.2005, the Goa govt directed MNL to stop mining operations with immediate effect for violation of the EIA Notification. However, on the basis of a representation made by one Mr Y.S. Reddy, signing as Mining Engineer for MNL, but on the letterhead of Hardesh Ores, the government reversed its decision and directed MNL merely not to exceed the quantity excavated by it prior to 27.1.1994, until it had obtained an EC. MNL appears to have objected to the representation. But violation of Rule 37 was overlooked.

iii) *Goa Assembly enquiry*: A query was raised in the Goa Assembly on 6.3.2007 on how the MNL mining lease could be worked by HOPL under a raising contract in violation of Rule 37 of MCR, 1960. A legal opinion was sought in the following terms:

a) What is the locus standi of M/s. Hardesh Ores Pvt Ltd as far as the compliance of the provisions of MMDR Act 1957 and MCR 1960 are concerned when the lessee is M/s. Mineira Nacional Ltda.

b) Whether Shri Y.S. Reddy could be considered as an authorised signatory to represent M/s. Mineira Nacional Ltda, when he is reported to be an employee of M/s. Hardesh Ores Pvt Ltd.

c) Whether the raising contract amounts to violation of Rule 37 of MCR 1960.

The Law Department asked for certain documents which were submitted but the matter ended there. The questions raised were never answered. The details regarding what is stated in para 32 (i-iii) above have been taken from the official file notings, copy of which can be found at **Annexure 12 colly**.

iv) *Renewal of Mining lease*: The issue of violation of Rule 37 came to the fore once again (and opinion was sought at the highest level), when applications for renewal of the lease were made by both MNL and HOP. On 6.4.2009, the Technical Assistant of the

DMG sought to know whose application should be processed, that of the lessee or the contractor? The matter was referred to the Advocate General who advised the Department to consider *both* applications for the second renewal of the mining lease. His note specifically records that MNL is the leaseholder of the mining lease and HOPL has been given a contract by MNL for operating the mine. Note of the AG is at **Annexure 13**.

v) *CEC Report*: In October, 2012, the Supreme Court directed the Central Empowered Committee to review the findings of the Justice Shah Commission of Inquiry Report into Illegal Mining in Goa. The CEC's interim report (dated 7.12.2012) refers to violations of Rule 37 and lists MNL as one of the violators. With regards to MNL, the CEC report concludes as follows:

> "78. After considering the details given in the above said annual returns, the CEC is of the view that prima-facie the said mining lease is being operated in violation of Rule, 37 of MCR, 1960 (for which a detail enquiry needs to be held) and that the

details of the production and dispatch figures of the mineral are not reliable at all."

vi) *IBM's criminal case*: On 29.11.2012, the Indian Bureau of Mines directed suspension of mining operations on the lease, followed on 31.12.2012, with a criminal case against MNL. The respondents included HOPL. The offences included the charges that MNL had not appointed a mining engineer/geologist since the year 1988 for TC No.62/51, that mining operations were continued without an approved mining plan, that quantities of ore were extracted in excess of that permitted, and that restoration, reclamation and rehabilitation of the land affected by mining operations in the northern part of the leasehold had not been undertaken as required. All these offences are consequences of the leaseholder handing over charge to another, in violation of Rule 37 and neither company accepting the responsibilities associated with the operation of the mine in accordance with law. The outcome of the case is not known to the petitioner. Copy of the JMFC's order disposing of the jurisdictional issue is at **Annexure 14 colly**.

vii) *Writ Petition:* On 6.6.2017, a single judge bench of this Hon'ble Court dismissed a writ appeal (WP No.1180/2016) filed by MNL against arbitration orders passed against it, dealing with TC No.62/51. Respondents were HOPL, IBM and the State of Goa. All the facts that would make a strong case for violation of Rule 37 are narrated in the said judgement. However, none of the parties raised the issue of violation of Rule 37. To the best of petitioner's knowledge, the Government authorities did not file an affidavit.

viii) *CA's Audit Report*: After the Hon'ble Supreme Court's judgement dated 21.4.2014 issuing several directions in relation to violations of the MMDR Act by the leaseholders, enquiries on some of these issues commenced in Goa. While, MNL was not on the list of those investigated for violation of Rule 37 of the MCR, 1960, it was included in the list for financial defaults submitted by the DMG to the Team of Chartered Accountants set up by the Goa government for the purpose. The data in the audit report dated 7th July 2015 establishes 100% violation of Rule 37 of the MCR, 1960. The page relating to "Form of

information to be submitted by iron ore owners and iron ore traders" has two columns. The first column records MNL as the leaseholder registered under Portuguese commercial law (this in the year 2015!). The IBM registration No. of the lease holder is IBM/4388/2011. However MNL has no IT PAN, TAN, TIN, GST registration number. All these are supplied by HOPL who uses the MNL's IBM registration No. IBM/4388/2011 to file returns. HOPL's own IBM registration number (No.IBM/513/2011), has been placed by IBM in the junk category. It is more than obvious that MNL has never operated the mining lease and all transactions have been done by HOPL. Copy of the relevant pages from the Audit are at **Annexure 15**.

ix) The audit report pegged the recovery of dues from MNL at Rs. 22 crores. The DMG issued a show cause notice accordingly. In his final order dated 13.2.2021, the DMG reduced the amount due from MNL to Rs.6,34,29,398 (6.34 crores). His Final Order records that the name of the notice is Mineira National Limitada (MNL) represented by Hardesh Ores Pvt Ltd (HOPL). The order records that the Run of

Mine (ROM) is not processed by either MNL or HOPL but by Sociedade de Fomento (Resp.No.6). The DMG also records that while notices were issued to both MNL and HOPL, it is HOPL who provided the documents, replies and clarifications. Interestingly, the order also records that MNL has stated that it has not authorized HOPL to represent them and they are not bound by any admissions or denials on their part as HOPL was a raising contractor and the agreement between them was not renewed. The DMG terms this to be a "private dispute between the parties" and collects the Rs.6.34 crores due from HOPL. Copy of the payment challans disclosing payment by HOPL is at **Annexure 16 colly**. Thus, the crime of operating a lease in violation of Rule 37 is knowingly swept under the carpet by the DMG who has been offered proof on a platter. The order of the DMG in the matter is at **Annexure 17**. Petitioner submits that the response of MNL disclosed in the audit report discussed above is precisely the reason why the violation of Rule 37 is extremely serious. From the point of view of paying for the environmental damages caused by the mining activity, eventual mine rehabilitation and mine

closure, the raising contractor may walk away after the ore is exhausted, while the original lessee may claim that he had nothing to do with the mining.

34. On 6.9.2017, a new Note was commenced in the files of the DMG dealing with the MNL lease. The note begins with a query from IBM enquiring whether TC no.62/51 stands extended till 31.3.2020 in view of the amendment to the MMDR Act, 2015 as the IBM has taken up for processing the Mining Plan submitted by M/s HOPL. The IBM subsequently approved the Mining Plan. Copies of the note and of the order approving the Mining Plan are at **Annexure 18 colly**. However, the state of Goa did not sign the extension order. Nonetheless, on 1.2.2021, the Goa government rewarded MNL with a permit to extract 2.5 million tonnes of mineral ores from its former lease. The permit is valid at Rs.230 crores at present prices. Though the entire permit is in the name of MNL, Resp.No.5 is the beneficiary. The permit has been challenged via PIL WP No.2401/2021 (F).

35. What is the power that Hardesh Ores, a mining contractor without a lease to its name, hold over the Government that it is able to bend it to its will? The clue to the enormous clout that HOPL exercises lies in the fact that HOPL is a group company of the

Sociedade de Fomento Industriale Pvt.Ltd (Resp No 6), a major player in the mining industry and with enormous clout among politicians of all hues. A copy of a CRISIL rating note based on information supplied by Fomento shows HOPL as a contractor of the company (See **Annexure 19**). The fact that MNL was being operated by HOPL, in open violation of Rule 37 of the MCR, 1960, has always been in the full knowledge of the Goa government and its mines department, as the events related above disclose. In fact, Fomento itself is the second largest violator of Rule 37 in the State.

36. But Mineira, HOPL and Fomento are not the only former lease-holders involved in Rule 37 violations. Petitioners are ready to file detailed submissions in respect of others in the mining industry involved in S. 37 violations. Petitioner has detailed records of Rule 37 violations of Vedanta Ltd, Dinar Tarcar, Minescape Minerals, Amalia Figueiredo, Radha Timblo, and several others. It is ready to depose in light of this material before any commission or court of inquiry.

37. In view of the obvious delay on the part of the Government to investigate the violations of Rule 37, the enquiry will simply linger on, under one pretext or another, and there will be no outcome, or the outcome will never see the light of day. In the meantime, as the state Government readies itself to

set up a mining corporation or to auction the leases, the same players, violators of Rule 37 and Section 4 and 4A of MMDR 1957, are eager once again to join the fray.

38. The state Government has shown itself to be entirely incapable of conducting the inquiry, not only because of the inexplicable delay in concluding the proceedings it initiated, or because it is under the stranglehold of the mining lobby, but also because its own role in allowing Rule 37 violations to continue will become obvious. It is therefore never going to be keen on any such enquiry. Applicant therefore seeks directions from this Hon'ble Court to refer the enquiry into the issue of violations of Rule 37 of the MCR in the State of Goa to an independent committee headed by a former High Court judge. Petitioner has no other option but to approach this Hon'ble Court for this relief on the following grounds, among others:

GROUNDS

A. The Hon'ble Supreme Court in WP(C) 435/2015 in its judgment dated 21.04.2014, has expressly stated that Rule 37 cannot be allowed to be violated by the lessees with impunity and the State Government cannot overlook transfers by saying that the transfers of the mining leases are part of the mining practice in the State of Goa. The Court stated that if these violations of Rule

37 are allowed, there shall be substantial leakage of revenue and mining operations cannot be effectively regulated and controlled by the State Government. It accordingly directed the State Government to initiate action against those mining lessees who violate Rules 37 and 38 of the MC Rules.

B. The consequences of allowing Rule 37 violations are extremely serious when considered in the context of repair and rehabilitation of the environment caused by the mining activity, including the mine closure plan. No party will claim responsibility. The owner of the lease will claim he never operated the mine. The raising contractor or any other person illegally operating the mine will simply walk away after the final tonne of ore is extracted.

C. Further, the CEC has reported that there are several complaints received by the State Government that the leases have been operated by the persons other than the lessees. The CEC has observed in its report that Rule 37 itself provides that in such cases of violation of Rule 37, the State Government may determine the mining lease, but the State Government has taken no action and has instead taken a stand that working of the mining leases by a person other than lease holder is a prevailing mining

practice in Goa and these facts are in the knowledge of the Government.

D. The CEC had further suggested that all mining leases in Goa are verified and if required, if required the concerned lease holder may be asked to provide the year wise details of the expenditure incurred by him towards the cost of raising mineral, payment of royalty etc, the sale price received by him and the gross income and the net income from the mining lease for the last five years. In respect of the mining leases for which such details are not received from the respective lease holder and / or are not found to be reliable the statutory clearances given for the mining lease should be held in abeyance and the mining operations should not be allowed to be restarted till a detailed enquiry is carried out. In respect of the mining leases which are found to have operated in violation of Rule 37, MCR, 1960, the process of the determination of the leases in accordance with the legal provision should be taken in a time bound manner.

E. A perusal of the records of proceedings with regard to the actions taken against the violation of Rule 37 of the MCR clearly indicates the indifference of the Government in following up with said violations to completion. Over 7 years, the Government has still not taken any

action against the defaulting lease-holders. Operation of mines by the person/s, firm or a company other than the actual lease holder would not be possible unless there is implicit support from the regulatory authorities. This support is evident in the stand of the State Government on the issue, shrugging these violations off as the normal practice in the State of Goa.

F. Despite the fact that the Goa government notified a Goa Grant of Mining Leases Policy (2014) in which it – not once, but twice -- solemnly promised that no lease would be renewed till investigations into such violations had been completed, all the mining companies – those that have been issued show cause notices, and those with regard to whom the Shah Commission and the CEC have given detailed accounts of the violation of Rule 37 and Section 6 – were granted a second renewal, their ECs were restored, and they were allowed to resume mining operations by September 2015. Evidently, the focus of the state government is on allowing mining operations to continue, regardless of the rampant and blatant violation of the laws in place, by the mining lease holders.

G. Though all the lease-holders in the State of Goa have lost their leases due to the judgement of

this Hon'ble Court dated 7.2.2018, it is required to inquire into whether they indeed violated Rule 37 as per directions of the Hon'ble Supreme Court. If so, the public exchequer would be benefitted by filing for recovery from the period of illegal mining carried out by the concerned lease-holders which would extend much earlier than the year 2007, when the period of first renewal came to an end. Thus, the inquiry would not be an idle or theoretical exercise. The findings would also have consequences on whether these lease-holders would be entitled to bid in auctions for mining leases in future, in view of the provisions of the MMDR Act, 1957. The findings would also be a deterrent to the mining industry, if and when it resumes mining activity in the state.

H. State of Goa has forfeited its right to move any further in the matter. Any agency which takes 7 years to do anything significant, that too after a specific direction from the Apex Court, is to be disqualified from the inquiry since its bona fides are suspect. The petition has also shown that in all such cases, the State knew about the violations of Rule 37 by individual lease-holders, but allowed them to operate and benefitted from these activities. Therefore the State of Goa was actively complicit in these violations of Rule 37. It would therefore be

necessary to go in for a more neutral and uninvolved agency for the purpose of the investigation.

Representations made

39. The Petitioner made a formal representation to the Secretary (Mines) in charge of the enquiry by its letter dated 22.12.2014. Thereafter, petitioner has pursued the matter through enquiries with the Mines Department and through RTI inspection of files. Petitioner's Director has also discussed the issue with the Director of Mines & Geology who has indicated that the inquiries into Rule 37 violations would commence only after the show cause notices based on the CAG report are brought to a satisfactory conclusion. That enquiry too is under active monitoring by this Hon'ble Court.

Delay, if any in filing the petition

40. There is no delay in filing this petition, as the cause of action is still very much alive. The petitioner has been put to test of its patience in the matter in pursing it across 7 years, and has been conducting RTI requests periodically to update it on the status of the enquiries.

Documents relied upon

41. The Petitioners are relying on information from the website of the Mines & Geology department, and documents obtained under the RTI Act. These are listed in the Index to this petition.

42. In view of the above circumstances, the Applicant seeks a direction from this Hon'ble Court referring an enquiry into the issue of violations of Rule 37 of the Mineral Concession Rules, 1960 in the State of Goa to an independent commission headed by a retired High Court judge.

Caveat

43. No notice has been received of lodging a caveat by any of the Respondents in this petition.

Source Of Information

44. The Petitioner has obtained the information on the basis of which this Petition is filed under the Right to Information Act, 2005.

Nature and extent of injury

45. The time-bound completion of the inquiries into violation of Rule 37 of the MCR, 1960 is extremely important in the context of illegal mining in the state of Goa, recoveries of illegal gains of substantial amounts, grant of leases in future and fixing

responsibility for rehabilitation of leased out areas which have suffered severe environmental damage, and these inquiries have remained uncompleted for years on end.

PRAYERS

46. In these circumstances it is prayed that this Hon'ble Court may be pleased to:

    (i) Direct that an enquiry into the issue of violations of Rule 37 of the MCR Rules, 1960 in the State of Goa be conducted by an independent committee headed by a former High Court judge and the report of such inquiry be produced before this Hon'ble Court.

    (ii) Pass appropriate orders in all such cases, after the inquiry is completed, and report submitted, as per the provisions of the MMDR Act, 1957, including actions under sub-sections (1) and (5) of Section 21 of the MMDR Act, 1957.

    (iii) Pass other or further orders as may be deemed fit and proper.

    (iv) For costs of this petition.

Interim relief:

(v) Pending hearing and final disposal of this PIL, and till the completion of the inquiry, for an order restraining State of Goa from having any further dealings in the sphere of mining activity with Respondent Nos.4, 5 and 6.

(vi) Pending hearing and final disposal of this petition, for an order directing the Goa government to produce the list of leases where there is prima facie evidence of violation of Rule 37.

Place:

Filed on:

Adv. For Applicant

IN THE HON'BLE HIGH COURT OF JUDICATURE AT BOMBAY, GOA BENCH, AT PORVORIM, GOA

PIL WRIT PETITION NO._____ OF 2021

THE GOA FOUNDATION …..**Petitioners**

v/s

THE STATE OF GOA & ORS **.....Respondents**

AFFIDAVIT IN SUPPORT OF THE PETITION

I, Dr. Claude Alvares, secretary of the Petitioner organisation abovenamed, do hereby solemnly affirm and declare as under: -

1. I have today filed a Writ Petition in public interest for the reliefs sought therein, which has been prepared under my instructions.

2. I state that there is no personal gain, private motive or oblique reason in filing the PIL.

3. The petitioners are ready to pay costs as ordered by the Court, if it is ultimately held that the petition is frivolous or has been filed for extraneous consideration or that it lacks bonafides.

4. The petitioners shall disclose the source of their information, leading to the filing of the PIL, if and when called upon by the Court to do so.

5. That the contents of paras 1 to _____ _____ _____ _____ of the accompanying petition are correct and true are true to the best of my knowledge and information collected by me from the Departments of Government and official gazettes/website/internet which I believe to be true, and the contents of paras _____ _____ _____ are my submissions made on legal advice which I believe to be true and correct. No part of it is false and nothing material has been concealed therefrom.

6. I say that the documents annexed are true copies of their originals.

Solemnly affirmed at Porvorim

This the th Day of November 2021

Petitioner/ Deponent